

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CISCO SYSTEMS INC,

Plaintiff,

v.

ARISTA NETWORKS, INC.,

Defendant.

Case No. 14-cv-05344-BLF

**ORDER DENYING DEFENDANT'S
MOTION TO SEAL**

[Re: ECF 180]

Before the Court is Defendant's administrative motion to file under seal portions of Defendant's Supplemental Proposed Discovery Plan. ECF 180. For the reasons stated below, the motion is DENIED.

I. LEGAL STANDARD

Unless a particular court record is one "traditionally kept secret," a "strong presumption in favor of access" to judicial records "is the starting point." *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)). A party seeking to seal judicial records relating to a dispositive motion bears the burden of overcoming this presumption by articulating "compelling reasons supported by specific factual findings that outweigh the general history of access and the public policies favoring disclosure." *Id.* at 1178-79. This standard is invoked "even if the dispositive motion, or its attachments, were previously filed under seal or protective order." *Id.* at 1179 (citing *Foltz*, 331 F.3d at 1136). Compelling reasons for sealing court files generally exist when such "court files might have become a vehicle for improper purposes,' such as the use of records to gratify private spite, promote public scandal, circulate libelous statements, or release trade secrets." *Id.* (quoting *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 598 (1978)). However,

1 “[t]he mere fact that the production of records may lead to a litigant’s embarrassment,
2 incrimination, or exposure to further litigation will not, without more, compel the court to seal its
3 records.” *Kamakana*, 447 F.3d at 1179.

4 In this District, parties seeking to seal judicial records must furthermore follow Civil Local
5 Rule 79-5, which requires, *inter alia*, that a sealing request be “*narrowly tailored* to seek sealing
6 *only* of sealable material.” Civil L.R. 79-5(b) (emphasis added). Where the submitting party
7 seeks to file under seal a document designated confidential by another party, the burden of
8 articulating compelling reasons for sealing is placed on the designating party. *Id.* 79-5(e).

9 **II. DISCUSSION**

10 Defendant moves to seal portions of its Supplemental Proposed Discovery Plan because of
11 its reference to deposition transcripts that are marked confidential by Plaintiff. Declaration of
12 Eduardo Santacana, ECF 180-1. As the designating party, Plaintiff filed a declaration indicating
13 that the statements sought to be sealed by Defendant are attorney argument rather than witness
14 testimony or confidential information. Declaration of Matthew Cannon, ECF 189. As a result,
15 Plaintiff does not seek sealing of those statements. *Id.* Accordingly, the Court DENIES
16 Defendant’s motion to seal.

17 **III. ORDER**

18 For the foregoing reasons, the sealing motion at ECF 180 is DENIED. Under Civil Local
19 Rule 79-5(e)(2), for any request that has been denied because the party designating a document as
20 confidential or subject to a protective order has not provided sufficient reasons to seal, the
21 submitting party must file the unredacted (or lesser redacted) documents into the public record no
22 earlier than 4 days and no later than 10 days from the filing of this order.

23 **IT IS SO ORDERED.**

24 Dated: February 17, 2016

25 
26 BETH LABSON FREEMAN
27 United States District Judge
28